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**From:** Fotouhi, David [Fotouhi.David@epa.gov]  
**Sent:** 8/24/2020 11:41:22 PM  
**To:** Ross, David P [ross.davidp@epa.gov]  
**CC:** Aguirre, Janita [Aguirre.Janita@epa.gov]; Wildeman, Anna [wildeman.anna@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; McDonough, Owen [mcdonough.owen@epa.gov]; Walker, Mary [walker.mary@epa.gov]  
**Subject:** RE: revised draft ESA memo  
**Attachments:** Assumption ESA Memo Clean\_DF.docx

Dave:

I've tracked my suggested edits (mainly nits) and one comment in the attached. I noticed you asked for OGC to do a thorough cite-check. I can ask my folks to do that based on this version or wait until you have a clean version that you're happy with. Let me know.

Best,

David

**David Fotouhi**

Principal Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

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**From:** Ross, David P <ross.davidp@epa.gov>  
**Sent:** Saturday, August 22, 2020 10:37 PM  
**To:** Fotouhi, David <Fotouhi.David@epa.gov>  
**Cc:** Aguirre, Janita <Aguirre.Janita@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; McDonough, Owen <mcdonough.owen@epa.gov>; Walker, Mary <walker.mary@epa.gov>  
**Subject:** FW: revised draft ESA memo

FYI. Let's wrap this up early this week. Once you are good with it, I'm going to send to Interior for a draft awareness flag.

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**From:** Ross, David P  
**Sent:** Saturday, August 22, 2020 10:35 PM  
**To:** Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>  
**Cc:** Aguirre, Janita <Aguirre.Janita@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>  
**Subject:** RE: revised draft ESA memo

Thanks Mindy.

Here are some quick redlines on the clean version of the memo. We need to have OGC check all legal references in here. I haven't checked them all as I go largely by memory, but two sentences caught my eye on this review and in checking the actual text of the regulations, we had mischaracterized them.

I'm fine with the signature at the end.

# Ex. 5 Deliberative Process (DP)

Dave

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**From:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>

**Sent:** Friday, August 21, 2020 5:21 PM

**To:** Ross, David P <[ross.davidp@epa.gov](mailto:ross.davidp@epa.gov)>

**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>; Connors, Sandra <[Connors.Sandra@epa.gov](mailto:Connors.Sandra@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Beck, Whitney <[beck.whitney@epa.gov](mailto:beck.whitney@epa.gov)>; McDavit, Michael W. <[Mcdavit.Michael@epa.gov](mailto:Mcdavit.Michael@epa.gov)>

**Subject:** revised draft ESA memo

Hi Dave,

Sorry for the delay in getting this back to you. Attached are a clean version of the memo (and let us know if you like it this way with signature at the bottom) and a version with staff redline comments on top of your clean draft. Alexis is sending this to David for his review.

Also attached are draft transmittals – one to Mary and one to the RAs – for your feedback before putting into CMS.

Thanks,  
Mindy

Mindy Eisenberg  
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